

Judicial (1895) Department.

ORDINARY MS.

G.O., No. 2324.

Dated 13th Nov 1895

INDEXED.

[Despatch Abstract.]

VIZIANAGRAM RIOT CASE.

Recording endorsement of the District Magistrate of Vizianagaram submitting letter from the Principal Assistant Magistrate reporting on certain points in the judgment of the District Judge in the criminal appeal preferred by the accused sepoys in the--.

met

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

From

The District Magistrate
Vijayapattanam

To

The District Magistrate
Vijayapattanam.

Curio. 678

Dated 23rd Sept 24th
Recd 16th
18th Sept 1895
Sensu Record 2

116 OCT. 95

Reporting on some points
of the judgment of the District
Judge in the criminal appeal
preferred by the accused sepoys
in the Vichavagram riot case

Me 29/10
11/30/95

Me (Traders)

80.400.000
3018100
147000
476

116 OCT. 95

Re 3961

Justice Department

Submitted to Government with copies of
the judgments, the Magistrates' & appellate
Courts.

The District Judge with draws his theory
of improper delay (vide his footnote to the
judgment at pages 56, 7 & 8) and rests his
decision on defective identification. His
conclusions that the persons identified on a
parade were different from those identified
in Court, and that the men who identified
them were different, do not seem to be based
on any sound foundation. Nevertheless
the question being merely one of identification
of men who took part in a riot at dusk, and
considering that the police were in this case
specially interested in getting some one
punished, I am not sure that it is
desirable to move the High Court to
take any action.

The mistake wrongly attributed by the Judge
to the District Magistrate is quite un-
important once the theory of unnecessary
delay is withdrawn.

Vijayapattanam
11th October 1895
Camp 68
For District Magistrate

Current No. 4903

Dated Vijayanagaram Cantonment, 24th

From

R. Morris Esquire,

By Post to the District Magistrate, Vizagapatam

To

The District Magistrate,

Vizagapatam

Sir,

I venture to address you with regard to a few points in the judgment of the District Judge in Criminal Appeal No. 18 of 1895 from the conviction passed by Mr. Edwin as Principal Assistant Magistrate in case No. 24 of 1895 on his file. The case was that in which certain persons of the 11th M. I. were charged with committing rioting and other offences at the Vijayanagaram Railway Station.

2. The Sessions Judge has refused to regard the identification of the appellants as conclusive because (1) the evidence was given under circumstances which show that it should be received with caution (2) that opportunities for collusion existed

and (3) that the absence of certain identifying evidence throws a doubt upon the evidence which was produced.

3. In dealing with the first point the Judge notes that it was urged by the appellants' pleaders that the Police were influenced by a feeling that in self defence they had to make out a case against the Sepoys, and in support of this it was contended that in order to obtain time to make up a case against the Sepoys they disregarded the provisions of law which required them to report the case forthwith to the Magistrate and antedated their report to hide their delay.

The Judge apparently accepts these statements as correct.

4. I do not see why in the circumstances the Police should consider that in self defence they had to make out a case against the Sepoys. The Police were the injured parties, and if a false case had to be made up in self defence it was rather the Sepoys than the Police who had to make it up. If the Judge refers to the affair which took place

place later in the evening, a false charge on he expected in regard to it, and not with regard to the riot earlier in the evening. But even in regard to the later affair it is not easy to see why the Police should be expected to make out a false case. The actual facts were sufficiently against the Sepoys to require no artificial strengthening.

5. In support of the theory that the Police report was antedated the Judge alludes to the fact that the report purports to have been made at 10 P.M. on the night of the riot, the 29 April, and that it was received by me on the 1st May at 12.30 A.M. In the margin he notes "perhaps a mistake for P.M.". Heed "A.M." be a mistake for "P.M." there might have been something in the Judge's contention that the report was delayed. But as a matter of fact it was at 12.30 A.M. that I received the telegram. I was then at Palakonda, a fact which the Judge could have gathered from another paper in the record, and I was aroused from sleep in the middle of the night between the 30 April and the 1st May in order that

the hour of
with reference to my watch. Now Pal
Konda is 44 miles from Vijayanagara, and there
cannot have been very much delay in dispatch
by a report dated 10 P.M. on the 29th April which
reached me by special messenger 26½ hours
later at a place 44 miles away. Had it reached
me in the middle of the 1st May, there might
be reason to suspect delay. I very strongly
resent the insinuation of inaccuracy which
the Judge has made against me.

6. Another proof relied upon by the Judge is
that the report mentions the fact that the Sub
Magistrate had sent a telegram to the District
Magistrate. The Judge notes that there is on
record a telegram despatched to me at 9.42
A.M. (misquoting note, "perhaps a mistake for
P.M.") on the 30th and infers that that telegram
was the one despatched to the District Magistrate.
Had the telegram been despatched to the District
Magistrate at 9.42 P.M. on the 30th the Judge's in
ference would be sound enough. But as your
own records will show the telegram to the District

Magistrate was sent ^{by a false charge on}
of the 29th I have reason to believe ^{that}
Magistrate's telegram to me was despatched at
the hour it purports to have been sent, for I received
it by special messenger from Razam (14 miles
from Palakonda) between four and five in the
afternoon of the 30th. It was the receipt of this tele
gram which prepared me to expect a police
report later on, and consequently to note the
exact hour at which it reached me.

7. The events which happened that night after
the first riot kept the Police fully occupied
until ten at night and the report made to me
was probably written at the earliest moment.
I believe, but am not certain, that the Police
Inspector sent a telegram to you about the same
time. The Judge's theory that the report was illeg
ally delayed for 24 hours in order to find time for con
structing a case falls therefore to the ground.

8. In making out his second point the Judge
remarks that "certain reports may not unpos
sibly have been known to the Police, and if
it would be possible for witnesses to agree before

on they would identify" ^{which was a}
case, but as the Regiment had been two years at
Vijaynagar the Police must have had the oppor-
tunity to make the acquaintances by sight of
more than a dozen sepoy. As the number of the
pickers is stated at 40 or more, why should they
have contacted themselves with identifying only
9 men instead of arranging to identify 20 or 30?
9. In dealing with his third point the Judge
refers almost entirely to a letter of Inspector
Ramalingaswami dated the 3rd June. He infers
that the Inspector was present at the identifi-
cation of some of the accused. I think it would
have been better to have satisfied himself as to
whether his conjecture was correct. I believe
that the Inspector Ramalingaswami was not
transferred to Vijaynagar until after the identifi-
cation parades. On this point the Superintendents
of Police could supply information.
10. As regards the charge sheet the imperfections
in which the Judge notices, I would suggest that
if had the case been conducted, and everything
wet and dry there would have been no difficulty

in making these charges. The Police might gain
least the benefit of the doubt. I believe the
real reason for the boldness of the stories was that
the Superintendent of Police had retained some of
his notes of the enquiry, and the Inspector had
not therefore access to them. That is however
a matter I am uncertain about.

11. I may mention that I have heard that
at a Court of enquiry held by the Commandant
of the 11th M. B. Kantham, the 7th accused who was
acquitted by Mr. Blwin made a statement that
he was at the station that night and saw some
of the other accused engaged in rioting. This in-
formation does not seem to have reached Mr. Clo-
stoun on the Public Prosecution.

12. I enclose the original copy of the judg-
ment received from the Session Court.

13. I do not know whether you think the case
is of sufficient importance on any reasons for
disagreeing with the Session Judge as to the
genuineness of the evidence strong enough
to move Government to apply to the High Court
for revision or for a re-hearing of the appeal.

you do not, may I at least request you
to bring to the notice of the Judge that he is
in error in supposing that I made any mistake
in dating the occurrence report as received at
12-30 A.M. on the 1st May?

I have the honor to be,

Sir,

Yours most obedt servt

William

Esq. H.E. Magistrate

W.H.

[G]
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600-23-7-95

Judicial DEPARTMENT.

C. No. 4903/95.

FOR ORDERS.

As the D.M. is not sure that it
is desirable to move the High Court
to take any action perhaps this may
be recorded?

Submitted that Mr. Morris letter
gives small grounds on which to move
the High Court.

Mr. Rings Here would not be the
slightest use in appealing
I looked upon the case
from the fact as a very weak
one.

6/11/95

So did I

W

8/11/95

*Indt. in the Criminal appeal
by the accused Sepoy
in the Viriamayam case.*

FOR ORDERS.

When given for copying _____
When copied _____
When examined _____
When signed _____

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READ AGAIN G.O., No. _____ DATED
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CURRENT No.

ENCLOSURES TO G. No.

ORDER OF GOVERNMENT

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH
IN ORIGINAL.

N.B. -

A = Copy in full.
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Q = Copy heading only.

N.

Order 13 Nov 1885 No 2321

Recorded.

Things

(from orders)

*To Dist. Magistrate, Viriamayam
with copy of
16/11
124/11*

*c 7/11
R 11/11*